

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1209 OF 2005

Rajan Radhakrishna Israni & Anr. ..Petitioners.

V/s.

M/s.Maruti Enclave co-operative
Housing Society Ltd. & Ors. ..Respondents.

Mr.R.G.Ketkar for petitioner.

Mr.P.P.Chavan for respondent No.1.

Ms.G.P.Mulekar, APP for State.

CORAM: A.M.KHANWILKAR, J

DATE : DECEMBER 14, 2005.

P.C. :

1. Heard counsel for the parties.
2. The argument of the petitioners in the present case is that on admitted facts which can be substantiated from the documents, no offence as against the petitioners either under section 5, 7 or 11 of the Maharashtra Ownership of Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 is made out. In such a case, the order issuing process against the petitioner can not be sustained.
3. This argument, in my view can be effectively

answered even in proceeding by way of revision application before the Sessions Court in view of the recent decisions of this court in the case of **V.K.Jain V/s.Pratap V. Padode 2005(3) Mh.L.J.778** and in unreported Judgment in the case of **Chetan R.Nagda & Ors V/s. N.D.Pawar & Ors in Cri.W.P. No.1023 of 2005 dated 8th December, 2005.**

4. This petition is disposed of with liberty to the petitioners to take recourse to remedy of revision before the Sessions Court, if so advised.

5. To facilitate petitioners to avail of the remedy of revision application, no precipitative steps be taken in the pending proceedings before the lower court for a period of four weeks from today. All questions on merits are left open to be decided in revision application, if filed.

6. In case, there is delay in filing Revision Application, Court will take into account the fact that the petitioners had first approached this Court, which period may be excused in computing delay.

7. Petition disposed of on the above terms.